

# Proposed floating wind farm to the south of Brittany



#Sheet

23

## What administrative procedures govern offshore wind farms and their connections and what authorisations are required?

### Main points addressed

This document outlines the various administrative procedures and authorisations required to build a floating wind farm. These authorisations will be requested by the contractor who wins the call for tenders and who will build and operate the wind farm, as well as by RTE for connecting the wind farm up to the public electricity transmission network. Specific procedures exist depending on the area selected for building the wind farm: the public maritime domain (MPD) and the exclusive economic zone (EEZ). These procedures are as follows:

- authorisations for occupying the public domain and the exclusive economic zone;
- environmental authorisations;
- specific authorisations for the public electricity transmission system needed to connect the wind farm up to the onshore electricity substation;
- urban planning authorisations for the construction of the onshore power substation in particular;
- the so-called "Fontaine" consultation, which will be held by RTE and which will focus specifically on the connection

#Sheet

22

What are the steps that come after the public debate?

Building an offshore wind farm and its connecting infrastructure involves the contractor who wins the contract obtaining administrative authorisations for the offshore wind farm, and RTE obtaining authorisations for connection, including the offshore substation. The type of authorisations for the offshore wind farm will depend on the marine environment in which the project is to be located.

- In the **exclusive economic zone (EEZ)**, i.e. more than 12 nautical miles from the coast, the offshore wind farm and the connection must comply with the legal framework established by law no. 2016-1687 of 8 December 2016 and law no. 2013-611 of 10 July 2013. Both these authorisations are issued by maritime *préfet* pursuant to law no. of 8 December 2016<sup>1</sup>.

#Sheet

14

Some notions on the law applicable at sea: what is the difference between maritime public domain and exclusive economic zone?

## 1. Authorisations to occupy the maritime public domain and the exclusive economic zone

Occupancy authorisations are required to build the wind farm. There are two types, depending on where the activity is to be located:

- The **maritime public domain (MPD)** is composed of the shoreline, from the ground and the sea's subsoil up to the territorial waters' boundary, 12 nautical miles from the coast (approximately 22 km). In order to occupy the public maritime domain, the contractor for the offshore wind farm project and RTE must each obtain a licence to use the MPD outside the ports, issued by the regional *préfet*. Any occupation of the public domain is subject to obtaining an authorisation in accordance with the conditions set forth in articles L. 2124-1 et seq. of the general code of public ownership.

## 2. Authorisations pertaining to the project's environmental impacts

- **Across the MPD**, the initiator of the offshore wind farm project and RTE for its connection must each obtain an environmental authorisation, in accordance with articles L. 214-3 and L. 181-1 et seq. of the French environmental code. The project initiator and RTE will each have to file an application for this environmental authorisation. This application may, where appropriate, cover several other authorisations in accordance with article L. 181-2 of the French environmental code, in particular derogations from the prohibition to damage protected species and habitats.
- **In the EEZ**, the single authorisation mentioned above, issued by the maritime *préfet*, serves as an environmental authorisation.

The granting of such authorisations shall be subject to an impact assessment to which members of the public shall be invited to contribute.

<sup>1</sup> Order of 8 December 2016 on maritime areas under the sovereignty or jurisdiction of the French Republic.

### 3. Procedures specific to the public electricity transmission network

RTE, in its capacity as operator of the public electricity transmission system and in accordance with article L. 323-3 of the French energy code, may request that the works necessary to build and maintain the infrastructure for the public electricity transmission system's licence be declared as being of public utility. The minister responsible for energy for the voltage levels under consideration is responsible for this declaration.

The public utility declaration applies to the entire electricity system, both onshore and offshore.

The creation or extension of an onshore electricity substation may, for its part, be declared as being of public utility in the area for which the *préfet* has responsibility, in application of the provisions of the compulsory purchase in the public interest code.

### 4. Authorisations for urban planning requirements

A building permit for the construction of the onshore electricity substation will have to be requested by RTE pursuant to articles L. 421-1 et seq. of the urban planning code.

The winner, or its suppliers, may also have to apply for authorisations in ports, for example, to build a maintenance base.

### 5. Consultation for the development of the public electricity transmission network

For each project to develop the public electricity transmission network, it is the responsibility of the State, as the supervisory authority, to ensure that RTE carries out its tasks under the best possible conditions, in particular with regard to economic, technical and environmental protection requirements.

The Fontaine<sup>2</sup> circular of 9 September 2002 on the development of public electricity transmission and distribution networks, provides that a preliminary study must be conducted into each proposed development to the public electricity transmission network, followed by a specific consultation in order to check the appropriateness of the project.

This preliminary study involves RTE compiling information to justify the project from a technical-economic perspective. This data will be reviewed by the State departments to ensure that RTE has considered all relevant solutions in relation to the requirements that need to be met and the environmental constraints.

Once the project is deemed to have been justified by the State, RTE will initiate a consultation process under the auspices of the regional *préfet*, designed to:

- define, together with the elected representatives and associations representing the populations concerned, the project's characteristics and the measures for integrating it into the environment and supporting it;
- provide the populations affected by the project with high-quality information; validate the zone and infrastructure for connecting it with the least impact.

This dialogue must happen in conjunction with the consultation process initiated by the national commission for public debate under the auspices of a guarantor after the public debate, enabling the public to be involved in defining the project's characteristics, as well as the measures for integrating it into the environment and supporting it before approving the zone and infrastructure for connecting it with the least impact.

#### The new considerations introduced by the ESSOC law: authorisations may focus on variable characteristics

The ESSOC<sup>3</sup> law which sets out to simplify the relationship between local government and the electorate provides that administrative authorisations for offshore wind farms and their connections may have variable characteristics, in particular in terms of power, number and the size of their wind turbines, up to a maximum threshold specified by the authorisations. These new provisions enable project initiators and RTE to adapt their infrastructure to keep pace with the technological developments available during the start-up phase, without having to amend their authorisations or request new ones. Projects are thus able to take advantage of the latest technological developments, while authorisations are issued factoring in prospective technological developments, thus providing for associated ARC (avoid, reduce, compensate) measures.

By way of an illustration, and without prejudice to future projects or authorisations, for a 250 MW floating wind farm, the authorisations could, for example, provide for it being made up of a maximum of 21 wind turbines, each with a maximum unit power of 15 MW, etc.<sup>4</sup> In this example, the project initiator could install either 21 wind turbines each with a unit power of 12MW (the most powerful turbine that General Electric currently builds), or 17 wind turbines each with a unit power of 15 MW (if such a powerful turbine existed when the farm was built).

For the second 500-MW farm to be awarded starting in 2024, the procedure to be followed will be similar to that described above. However, the connection procedures should be simpler, thanks to pooling and the authorisations obtained from the outset for connection.

2



<sup>2</sup> [http://circulaire.legifrance.gouv.fr/pdf/2009/03/cir\\_26580.pdf](http://circulaire.legifrance.gouv.fr/pdf/2009/03/cir_26580.pdf)

<sup>3</sup> law no. 2018-727 of 10 August 2018.

<sup>4</sup> The main other characteristics that might vary are as follows: the maximum height of the wind turbine at the end of the blade, the minimum and maximum distances between two wind turbines, the distance between the sea and the bottom of the blade, the type of foundations, the number of kilometres of minimum and maximum cables or the maximum total area covered by the wind farm.